



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1 **S**

ARREST AND CUSTODY

CHAPTER 6 **S**

POLICE POWERS AND DUTIES

Powers of police

45 Use of reasonable force **S**

A constable may use reasonable force—

- (a) to effect an arrest,
- (b) when taking a person who is in police custody to any place.

Commencement Information

II S. 45 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

46 Common law power of entry **S**

Nothing in this Part affects any rule of law concerning the powers of a constable to enter any premises for any purpose.

Commencement Information

I2 S. 46 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

Changes to legislation: Criminal Justice (Scotland) Act 2016, Cross Heading: Powers of police is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

47 Common law power of search etc. **S**

- (1) Nothing in this Part affects any rule of law by virtue of which a constable may exercise a power of the type described in subsection (2).
- (2) The type of power is a power that a constable may exercise in relation to a person by reason of the person's having been arrested and charged with an offence by a constable.
- (3) Powers of the type described in subsection (2) include the power to—
 - (a) search the person,
 - (b) seize any item in the person's possession,
 - (c) cause the person to participate in an identification procedure.

Commencement Information

I3 S. 47 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

48 Power of search etc. on arrest **S**

- (1) A constable may exercise in relation to a person to whom subsection (2) applies any power of the type described in section 47(2) which the constable would be able to exercise by virtue of a rule of law if the person had been charged with the relevant offence by a constable.
- (2) This subsection applies to a person who—
 - (a) is in police custody having been arrested without a warrant, and
 - (b) has not, since being arrested, been charged with an offence by a constable.
- (3) In subsection (1), “the relevant offence” means the offence in connection with which the person is in police custody.

Commencement Information

I4 S. 48 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

49 Taking drunk persons to designated place **S**

- (1) Where—
 - (a) a person is liable to be arrested in respect of an offence by a constable without a warrant, and
 - (b) the constable is of the opinion that the person is drunk,
 the constable may take the person to a designated place (and do so instead of arresting the person).
- (2) Nothing done under subsection (1)—
 - (a) makes a person liable to be held unwillingly at a designated place, or
 - (b) prevents a constable from arresting the person in respect of the offence referred to in that subsection.
- (3) In this section, “designated place” is any place designated by the Scottish Ministers for the purpose of this section as a place suitable for the care of drunken persons.

Changes to legislation: *Criminal Justice (Scotland) Act 2016, Cross Heading: Powers of police is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

Commencement Information

I5 S. 49 in force at 25.1.2018 by [S.S.I. 2017/345](#), art. 3, [sch.](#)

Changes to legislation:

Criminal Justice (Scotland) Act 2016, Cross Heading: Powers of police is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)